



COMMITTEE ON ELECTIONS, RULES, ORDINANCES, ORDERS AND CLAIMS

JULY 6, 2009

MINUTES

Councilor Michael Bardsley, Chair

Councilor Robert Reckman

Councilor David Narkewicz

Chairman Bardsley opened the meeting at 6:00 P.M., in City Council Chambers, Wallace J. Puchalski Municipal Building, 212 Main Street, Northampton, on the following:

CLAIMS: Kathleen Davis – Personal Injury Claim of April 18, 2009

Chairman Bardsley explained how the claims process works: This Committee must find that the City was negligent & knew or should have known of the situation. A typical example is the reporting of potholes. Potholes are a natural occurrence, and not the fault of the City. Most frequently, the first to hit a pothole and have damage to their car, this resident calls the police or DPW to report it. Once reported, the City must repair within a reasonable time. The second person to hit a pothole can file a claim, and may be reimbursed if the City knew of it and had not yet repaired it. Sometimes this process is straightforward. Quite often, a dialogue with the claimant gives a new perspective to the Committee.

Chairman Bardsley stated that the Committee voted at the June meeting to deny, without prejudice until December 31, 2009, the above claim. If there would be any change or new information, the claimant could bring the information forward to the Committee for reconsideration.

Ms. Davis was present to speak to the Committee. She went over the details of her claim again, and further stated that there were two bicycle Patrol Police Officers on the scene. Ms. Davis said that the pothole was still not repaired a month later. The DPW appears to have not put in a work order on this pothole until Ms. Davis wrote a letter to the Mayor, sent the claim to the Clerk, and the Clerk put the claim in to the DPW. Ms. Davis does not understand why paramedics or the bike police did not report the pothole. She stated that the City should consider more important areas be monitored and that the police should have reported this pothole.

Ms. Davis stated further that she feels fortunate that she did have some medical and dental insurance, but now, as a result of this accident, she cannot have further dental work this year, as she has maxed out her insurance with this claim. Her claim documents show that she has paid the majority of the costs out of pocket, with some insurance coverage on the balance.

Councilor Reckman stated that the irony is that this claimant has been physically hurt, while most pothole claims are car damage. He stated that he is not sure how different this is. He

questioned who calls in a pothole. Anyone can report a pothole, and usually, once someone hits a pothole, the City is made aware.

Councilor Reckman stated that, while he sympathizes with Ms. Davis' claim, the Committee cannot change the vote.

Councilor Bardsley questioned and reviewed the filing and dates of the claim and DPW order.

Ms. Davis stated that police were in the vicinity, as told to her by a witness. She was going into shock and the ambulance took her to the hospital. Ms. Davis stated that a Northampton resident described this pothole as a "chasm".

Councilor Narkewicz also stated his sympathies for Ms. Davis' claim and noted that the Committee is bound by policy and precedents set. He stated that, to most motorists, a pothole in this part of the street is not an issue.

Councilor Bardsley reviewed the bill from Ms. Davis and reviewed the adjusted amounts. Ms. Davis stated that she has adjusted the bill down by approximately \$90.00 based on actual bills she has paid.

Councilor Bardsley then offered to Ms. Davis that the Committee would review her claim again with City Solicitor, Janet Sheppard, when she returns from vacation. The vote of the June meeting to deny, without prejudice until December 31, 2009, stands as is. The Committee will discuss with Ms. Sheppard at the August 10, 2009 meeting, any possible avenues or different ways to address this claim. Ms. Davis was told that she is not obligated to attend the August meeting, and that she would be informed by the Clerk as to the outcome of that discussion. The Committee thanked Ms. Davis for coming to this meeting. Ms. Davis thanked the Committee for hearing her claim.

ORDINANCES:

- Amend 312-67 A keep right sign be installed in the locations listed (Route 9/Look Park) (Referred by City Council June 5, 2008, PENDING)
- Amend 312-112 A One-Way Street sign be installed at the locations listed (Route 9/Look Park) (Referred by City Council June 5, 2008, PENDING)
- Amend 312-113 A yield sign be installed at the locations listed (Route 9/Look Park) (Referred by City Council June 5, 2008, PENDING)

The above three Ordinances are still pending.

- Amend §89-5 to 89-7 Revise Office of Planning and Development Duties (Referred by City Council May 21, 2009)
- Add Article IV. Office of Community and Economic Development: Add §89-11 through §89-13. (Referred by City Council May 21, 2009)

Mayor Higgins was present to discuss the Ordinances with the Committee. Mayor Higgins explained that block grant monies in the 1980's were in the Mayor's office, and that Mayor Musante moved these to Planning Office. The City needs Economic Development coordinator, who is 90% funded by the CDBG grant monies, with \$6,000 out of General Fund. Teri Anderson would supervise Peg Keller, Cam Leon, who does all the HUD bills; and stimulus money would be used to keep Nate Best for one year from CDBG and some program income.

Councilor Bardsley questioned the rationale: Why Economic Development could be proponent on hotel? The Mayor is proposing differently.

Mayor Higgins explained the model: The position could have picked up Peg through half Block, half McKinney. The functions include the Elm Street Historic and Central Business Architecture. Downtown applications would be picked up by Wayne Feiden in the Planning Department. This depends on the season. Elm Street is based on permits. Wayne will track the permits, which are down overall. By funding Teri with \$6,000 from General Fund of City, balance would fund with CDBG. This is saving money to organize the work. In this way, these roles are institutionalized. There is no legal reason to have to do this, but is philosophically good.

Councilor Bardsley questioned whether a cost analysis for future had been done? Mayor Higgins answered that this has not been done, as yet. In the budget there are no raises next year, but City did see a small increase in grant monies.

Councilor Narkewicz questioned if Teri Anderson is not part of bargaining units? Mayor Higgins answered that this position is a high grade and non-union. Mayor Higgins emphasized that no staff received raises in this budget.

Councilor Bardsley stated his concerns that the block grant will be to fund positions in Economic Development with a risk that the City will lose those functions if the grant dollars are gone.

Mayor Higgins stated that this funding through grant dollars is similar to the example of the Ambulance - if funding is cut, the staff could be lower. Amherst is also having much discussion on this matter. There are no guarantees from the State for more secure monies. The City can use Chapter 90 on some projects but the City must spend CDBG as the government states. Many years ago, the bricks in downtown were funded by CDBG monies. This plan is keeping with spirit of this.

Councilor Narkewicz stated he has researched other models. Burlington, VT, under then Mayor Bernie Sanders, created CEDO 25 years ago. The Burlington model is recognized nationally and they have a very good website (see attached).

Councilor Bardsley stated his concerns regarding the timing of this reorganization in this economic crunch. He stated that the City may have additional cuts in services, and he would prefer to err on side of caution or consider eliminating positions.

Councilor Narkewicz stated he would agree with Councilor Bardsley, if this plan were adding costs. This actually is saving \$36,000 to City by just reorganizing. The only cost to the general fund is down from \$42,000 to \$6,000.

Councilor Bardsley responded to Councilor Narkewicz's statement by stating that the re-organization in itself is not saving money. He stated that the money is being saved by the change of funding source. He stated that the City would benefit from the savings regardless of whether the re-organization happens.

Councilor Narkewicz moved approval of Ordinance 89-5 to 89-7 and Ordinance 89-11 to 89-13; Councilor Reckman seconded. The vote passed on a vote of 2 Yes, 1 No (Councilor Bardsley voting No)

- Amend Section 312-99 Violations and Penalties (Referred by City Council June 4, 2009 to Committee on Elections, Rules, Ordinances, Orders and Claims and Committee on Economic Development, Housing and Land Use)

This originated from Parking Director, William Letendre (presently on vacation). The parking ticket was raised from \$5 to \$8 to \$10 eleven years ago. Tracking shows that revenues are down with friendly items such as not ticketing in garage, 15 minute parking, and first hour free in the garage. This is a positive to City, but also a loss on revenue.

Councilor Reckman questioned where the money goes from tickets? Mayor Higgins stated that revenue from parking tickets goes to the General Fund. Parking Receipts from meters goes to fund personnel, parking enforcement officers, seven police officers and BID fee and sweeper.

Councilor Bardsley stated concerns of fees and fines. Mayor Higgins stated that this was strictly an idea from William Letendre, Parking Director, as he looked at ways to gain revenue when facing this year's budget concerns.

The Clerk stated that the Committee on Economic Development, Housing and Land Use did not meet in June, and has yet to review Ordinance 312-99.

Councilor Reckman stated the Committee could move without recommendations. **The Committee decided to continue Ordinance 312-99 to August 10, 2009 meeting, pending review by Committee on Economic Development, Housing and Land Use.**

**PUBLIC FORUM - AD HOC COMMITTEE ON BEST PRACTICES IN NORTHAMPTON
DECISION-MAKING MANUAL – REVIEW –**

**9. “Review City Council Rules and procedures, and City Ordinances, in
relationship to best practices goals and guidelines” (Page 8)**

Jesus Leyva, 300 Brook Street stated he wants citizens made part of the Council conversation. People don't understand and often cannot attend subcommittees; people come to City Council to be heard in public comment. How are you dealing with different status? Parents, others working? Of 25 or more citizens, to use a Sunshine Ordinance for topics such as the discussion on the landfill. What if citizens want issues to be addressed? Why is the special meeting of City Council regarding Best Practices not yet scheduled? City Council is understood by more people than subcommittees.

Councilor Bardsley stated that there is a model, which can separate, public comments in general from public comments regarding specific issues: an example is the recent issue of the BID. There was a separation of general public comments, and public comments pertaining just to the BID Order during the City Council meeting.

Ken Mitchell, West Street stated that citizens should be able to join in debate, some to see how issue is handled. Sometimes councilors have wrong information, this is a disservice to community, and citizens are not recognized. Citizens should have the opportunity to make comments. When an item is under New Business, where does it go from there?

Darryl LaFleur, South Street – Tell us where the process is?

Councilor Bardsley answered that since the Best Practices report was published, all subcommittees are looking at the report and then making recommendations from each Committee's perspective.

Councilor Reckman stated that Council President Dostal will call a special meeting sometime in July or August for review of Best Practices Manual and recommendations, with no votes to be taken, just discussion.

Councilor Bardsley stated that this Committee has begun with Council Rules. Recommendations can be made to the full City Council. Only this Committee has jurisdiction to make rules.

Councilor Narkewicz stated that the current agenda item can be referred out to subcommittees and can come back to full City Council after all have weighed in.

Mayor Higgins stated that Berkeley has a Charter change, and it is not 25, but 50 citizen signatures for action items with a 20 day period. For Berkley, it has been a two-year process and is not yet changed in Charter.

Ken Mitchell stated that Council should be allowing people to be part of deliberation, for and against an issue, and would save time for the Council.

Councilor Narkewicz stated that Councilors are elected to represent 29,000 residents, and at most, there may be 100 at a meeting. A resident can always contact their Councilor who is elected to represent their ward. Citizens can provide or get information, attend meetings, and can meet with councilors to take part in the debate.

Ken Mitchell stated that citizens do not get recognized at meetings of City Council.

Councilor Narkewicz stated that this is a question of mechanics. It has been by experience that has an established solution that best fits the system. There are always discussions at subcommittee meetings. It would be awkward and lengthy at Council meetings. Most big issues are discussed at length ahead of time. City Council is not the only place to weigh in, and citizens and Council must respond and be flexible.

Councilor Bardsley stated that individual residents might want to present an issue in public comment.

Mayor Higgins stated there is a Consent Agenda used by some Councils. The non-controversial items are voted first, with larger items later in the meeting. The School Committee sometimes uses this model.

Darryl LaFleur- If the Council is voting with incorrect information, what is the mechanism to revisit an issue?

Councilor Narkewicz- There is usually time between first and second readings. An Order can be rescinded before a meeting, but if it is incorrect and passes Council, we must introduce a new Order to change, amend or revise.

Mayor Higgins stated that an issue would be reintroduced and go through the full process, if residents convince a Councilor to reintroduce.

Ken Mitchell stated that public comment more open, and the City Council should be aggressive to try new ways for people to have an opportunity to speak.

Councilor Reckman would like to change Item #34 so that two members of a subcommittee can request meeting. Robert's Rules states chairman request a special meeting, or a majority to notify. If no quorum, no meeting can be held.

Councilor Bardsley will write up recommendations of this Committee for a future special City Council meeting to address Best Practices recommendations.

❑ **APPROVAL OF MINUTES – June 8, 2009 and June 11, 2009**

Councilor Reckman moved approval of June 8, 2009 and June 11, 2009 minutes; Councilor Narkewicz seconded. The vote passed unanimously (3-0).


Councilor Bardsley stated his concerns regarding misinformation at the June 8, 2009 meeting. Councilor Reckman thanked Mayor Higgins for coming to this meeting to clarify those items for this Committee.

❑ **NEW BUSINESS -none**

At 8:15 p.m., Councilor Bardsley moved to adjourn, and was seconded by Councilor Narkewicz. The vote passed unanimously (3-0).

Next meeting is August 10, 2009 at 6:00 p.m.

*Respectfully submitted,
Mary L. Midura
Executive Secretary*

COMMUNITY & ECONOMIC DEVELOPMENT OFFICE	<i>The City of Burlington, Vermont</i>																									
																										
	Brownfields CDBG VISTA Site Map CEDO Home City Home Burlington A to Z A B C D E F G H I J K L M N O P Q R S T U V W X Y Z Housing Business Community Waterfront																									

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Business
Community
Waterfront

Legacy Project
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The Community and Economic Development Office is a department of the City of Burlington. We work with the community to foster economic vitality; preserve and enhance neighborhoods, quality of life and the environment; and promote equity and opportunity for all residents of Burlington.

Recent News and Information

- **Neighborhood Improvement Nights are Coming this Fall:** This year, the Neighborhood Improvement Nights will focus on the Municipal Development Plan, and on how to better connect the waterfront and downtown. [[Read more](#)]
- **CEDO Monthly Activity Report:** The monthly activity report summarizes staff activities. [[Read more](#)]
- **Updated List of Resources for Families with Young Children Available:** Building Bright Futures of Chittenden County publishes a list of who to call when questions - or crises - come up. [[Read more](#)]
- **Burlington Lead Program Receives Award:** The Burlington Lead Program is a second-place Award of Excellence winner of the 2009 Lead Safe for Kids' Sake grant program from the US Conference of Mayors and DuPont, accompanied by \$50,000 for a variety of lead safety activities. For more information, contact Brian Pine at bpine@ci.burlington.vt.us.
- **New Staff:** CEDO is pleased to welcome Jenny Davis as our new neighborhood Community Development Specialist and Nicky Beaudoin as our new Graffiti Coordinator.
- **The Buzz is Back:** The e-newsletter "Neighborhood BUZZ" returned to circulation on July 2. If you'd like to receive this weekly update, contact Jenny Davis at jdavis@ci.burlington.vt.us.
- **Ordinance Change Proposed:** City Council has forwarded a proposed ordinance to the Ordinance Committee which would allow for civil penalties for some low level crimes (including unlawful mischief, unlawful trespass and disorderly conduct), with a goal of holding individuals whose cases currently are not being prosecuted by the over-burdened State's Attorney's Office accountable. For more information, contact kvastine@ci.burlington.vt.us.

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Burlington City Hall, 149 Church Street, Burlington, Vermont 05401

CEDO's programs are available to all people regardless of race, color, religion, sex, sexual orientation, age, disability, place of birth, or national origin. For information on the accessibility of CEDO's programs, contact us at 802-865-7144 / cedofd@ci.burlington.vt.us.

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